

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MESA VIEW FAMILY CHURCH,

Plaintiff,

v.

BROTHERHOOD MUTUAL INSURANCE COMPANY, LLC,

Defendant.

NOTICE OF REMOVAL

Brotherhood Mutual Insurance Company (Brotherhood), improperly named herein as “Brotherhood Mutual Insurance Company, LLC”, by and through its attorneys, Riley, Shane & Keller, P.A. (Courtenay L. Keller), hereby gives notice of removal of this matter to the United States District Court for the District of New Mexico. In support, Brotherhood states the following:

1. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Brotherhood hereby gives notice of removal of all counts and claims asserted by Plaintiff in the civil action filed in the Thirteenth Judicial District, County of Valencia, State of New Mexico, styled: *Mesa View Family Church vs. Brotherhood Mutual Insurance Company, LLC*; Thirteenth Judicial District Cause No. D-1314-CV-2020-00287. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served to date are attached hereto as Exhibit “A”.

2. Plaintiff's *Complaint for Bad Faith, Breach of Contract, and Violations of the Unfair Claims Practices Act and the Unfair Trade Practices Act* (Complaint) was filed in the Thirteenth Judicial District Court on March 6, 2020. *See Exhibit "A1". Pursuant to NMSA 1978, §§ 59A-5-31 and 59A-5-32, the State of New Mexico Office of the Superintendent of Insurance accepted service of the summons and Complaint on behalf of Brotherhood on April 16, 2020 and mailed it to Brotherhood that same day via certified mail (# 7018 1830 0000 6972 7821); the summons and Complaint were received by Brotherhood on April 21, 2020. See Exhibit "A2". Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446 (b)(1) (providing a notice of removal "shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . ."); see also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 348, 119 S.Ct. 1322, 1325 (1999) (holding that 30-day removal period began to run when defendant was formally served by certified mail).*

3. This is an action of a civil nature in which the United States District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332 (a) because there is complete diversity of citizenship between Plaintiff and Defendant, and the amount in controversy exceeds \$75,000.00.

4. Brotherhood is a non-resident insurance company and an Indiana corporation. Plaintiff Mesa View Family Church (Mesa View) is, upon information and

belief, a domestic nonprofit corporation located in the City of Los Lunas, Valencia County, New Mexico. *See Exhibit “A1” (Complaint) at ¶ 1.*

5. A reasonable estimate of the amount that will be put at issue in the course of the litigation is in excess of \$75,000.00,¹ exclusive of interest and costs.

6. This case involves an actual controversy between the parties regarding their respective rights and obligations under the applicable insurance policy. *See generally Exhibit “A1”.* Plaintiff claims entitlement to policy benefits in excess of \$320,000. *See Exhibits B-1 and B-2.*

7. Pursuant to 28 U.S.C. § 1446 (d), written notice of removal has been given to all adverse parties and a copy of this Notice of Removal has been filed with the Clerk of the Thirteenth Judicial District Court, County of Valencia, State of New Mexico.

Respectfully submitted,

RILEY, SHANE & KELLER, P.A.

By: /s/ electronically filed by Courtenay L. Keller

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Mutual Insurance Company

¹ *See Laughlin v. Kmart Corp.*, 50 F.3d 871, 873 (1995); *see also Frederick v. Farmers Underwriters Ins. Co.*, 683 F.3d 1242, 1254 (10th Cir. 2012); and *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S.Ct. 547, 554 (2014) (holding “a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. . . [e]vidence establishing the amount is required by § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant’s allegation”)).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15th day of May, 2020, a copy of the foregoing was electronically filed through the CM/ECF system, which caused participating CM/ECF counsel to be served with same by electronic means, and was emailed on the same day to the following counsel of record:

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By: /s/ electronically filed by Courtenay L. Keller
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